File No. 1215/34

19

Collection No.

(K)

Pros. Serial Nos.

Subject.

Enhancement of the jurisdiction to Rs 100/- of the Registrar of the Court of Small Causes C & M Bdr. Bdm ~~to Rs 100/-~~ (Special pay to the Registrar).

Previous References.

A. 171/33

Later References.

F. 57/35

854/36

R ~~&~~ 312/46.

Endorsed

97. (Blue).

OFP—1658S&P—(M-1937)—19-12-32—60,000.

District and Sessions Judge came to see me yesterday and I took the opportunity of discussing with him our proposal that all registration work should be placed in the hands of a single officer. He was not very enthusiastic about the proposal for several reasons:

(1) It would not relieve him to any appreciable extent because the relief which he seeks is not from registration work but from Small Cause Court's work. He says that the District Judge has far too much Small Cause Court's work to do and very strongly recommends that the jurisdiction of his Registrar in respect of Small Cause Court's cases should be increased to about Rs. 100/-. As far as I remember this is more or less what the Additional Judge recommended also.

(2) District Judge pointed out that it would scarcely be possible for the Registrar of the Resident's Court (High Court) to hear Small Cause Court's cases because in such cases there is no right of appeal but only one of review; and the Review Petition must lie to the High Court. This would mean that the Registrar would have to prepare for decision by the Additional Judge, Review Petitions directed against his own decisions.

District Judge thinks that the most satisfactory arrangement would be to allow the registration work to continue to be distributed more or less as it is

at

at present and to enhance the powers of the District Judge's Registrar in Small Cause Court's cases.

Mr. T. A. Gopalachari.

14.7.34

Urgent

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17/8/34

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE.
13 AUG. 1934
Regd No. 7429
Dy. No.

U.O.No.3285.
11-8-1934.

The particulars called for by you in U.O.No.R.O.T./ 1934 dated the 7th instant are furnished in the accompanying statement.

S. Ganapathisundaram.
Registrar,
District & Sessions Court,
C.& M. Station, Bangalore.

To

The Assistant Secretary to the Hon'ble
the Resident in Mysore,
Bangalore.

H-C°. Please note on the file. Early
Para
15834

§ Para 2 of ©

In the Resident's notification No.18 dated the 26th March 1913 a Court of Small Causes was established in the Civil and Military Station, Bangalore with jurisdiction extending over the whole station and the District Judge for the time being was appointed Judge of the same Court. Under section 15(2) of the Provincial Small Cause Courts Act, 1887, the powers of a Court of Small Causes are limited to the trial of cases the value of which does not exceed Rs 500/-. In notification no. 61 dated the 10th November 1921 the District Munsiff of the Station was invested with the powers of a Court of Small Causes to try cases up to Rs 100/- the District Judge continuing to exercise such powers above Rs 100/- up to Rs 500/-.

In 1925 Mr.G.T.Boag I.C.S. examined the finances of the Assigned Tract with a view to effecting retrenchment of expenditure. Mr.Boag found that the posts of District Munsiff and the 1st class Magistrate which then existed separately could be combined and that one officer could look after the duties of both. He also found that the work of the District Judge both on the civil appellate side and the Sessions side was very much lighter than that of the Madras Courts. The then District Judge agreed to take over the entire small cause work provided his sheristadar was empowered to try as Registrar under section 12 of the

the Provincial Small Cause Courts Act, small cause suits under Rs 20/-. Mr.Boag made a recommendation accordingly and it was accepted. The notification investing the District Munsiff with small cause powers was cancelled and the Sheristadar was invested with powers to try as Registrar under section 12 of the Provincial Small Cause Courts Act, 1887 (Act IX of 1887) Small Cause suits up to the value of Rs 20/- Vide Notification No. 90 dated the 20th October 1926. The then District Judge considered that the Sheristadar's pay should be revised from Rs 150-10-250 to Rs 200-20-300 but Mr. Boag expressed the opinion that the pay need not for the time being be increased. He was subsequently given a special pay of Rs 75/- per month with retrospective effect from 21-10-1926 in the Resident's Proceedings No.390 dated 16/1/1928 and no. 2904 & the 21st 3-1928.

In March 1933 Mr.C.V.Reddy the then District Judge represented that his work had increased and that he might be given some relief by raising the Small Cause jurisdiction of his Registrar from Rs 20/- to Rs 50/-. No proposal was then made to increase the pay or special pay of the Registrar. The proposal did not commend itself to Sir R.Burke who turned it down without assigning any specific reasons. In the course of the examination of the proposal it was found that even on a six years average - as against

against the three years taken by the District Judge-there was appreciable increase both in the number of Small Cause suits and in the number of insolvency petitions instituted in the Court over the number estimated by Mr.Boag, but it was also found that there was a fall in the number of Original Suits and Sessions Cases. It was also then shown that it was inexpedient to saddle the Registrar with more judicial work.

The District Judge has now raised the question again with certain improvements on his old proposals - relief must now extend up to Rs 100/-, ~~it must be given to the Registrar~~ the Registrar's jurisdiction must be raised up to Rs 100/- and he (Registrar) ~~who~~ should be given an increase of pay of Rs 50/- per month. The reason now urged is not so much the increase in his work as the fact that a person of the eminence of the District and Sessions Judge should allow so much of his time to be taken up by petty small cause work and the connected ~~examination~~ execution and miscellaneous petitions. The point now urged by the District Judge is important and it is endorsed by Mr.Horwill, the ex Additional Judge. It is necessary therefore to relieve the District Judge of some small cause work. ~~but~~ The question however remains up to what amount he is to be relieved and by whom.

The District Judge has furnished figures of the filings in his Court on the last three years average. They are set down below for purposes of comparison with Mr.Boag's estimate

estimate which was arrived at apparently after taking into account the work done in Madras District Courts. (Mr.Boag's figures relate to the period 1920-23)

	O.S.	C.Appeals	Small cause ~~S.C.~~ suits	Insolvencys	Petty Sessions cases	Cr. appeal
Boag's estimate.	60	35	1700-300(Regr)	60	12	34
Last three years' average as furnished by District Judge.	40	35	2192 464(Regr)	150	7	47

The increase in filings under small cause suits and insolvency petitions is apparent but so also is the reduction in the number of Original Suits and Sessions cases which take up a great deal of the Judge's time. So in relieving the Judge of petty small cause work care has to be taken to see that he does get a normal day's work. If he is relieved of work up to Rs 100/- as proposed the District Judge will have about 777 small cause suits for disposal, against 1700 estimated by Mr.Boag. It is apparent that his work will then be considerably lightened. If however he is relieved of small cause work up to Rs 50/- a great deal of the petty small cause work will be taken off his hands and he will still have an average of about 1400 cases, a figure which is nearer the number estimated by Mr.Boag. It seems sufficient therefore to relieve him of small cause work up to Rs 50/- ~~this amount~~

In appraising the District Judge's work it is also necessary to take into account certain other administrative work entrusted to him - work as Registrar of Assurances,

Additional Judges of the Courts of the Resident at Hydrabad and the Agent to the Governor General in Central India. If it is an addition to his regular pay (Rs 150-10-250) it has not been made clear whether the Registrar is to receive the addition by a process of annual increments rising up to Rs 300/- or otherwise. Apparently it is to be an addition to his special pay.

13 Mr.Boag's suggestion to give relief to the District Judge, in case he stood in need of it, was to invest the Official Receiver with insolvency jurisdiction. The work the District Judge seeks relief from is petty small cause work and apparently for this reason he has left the Official Receiver out of consideration.

14 Recently in connection with a scheme for the separation of the establishment of the Court and of the office of the Resident, it was proposed to have a full time Registrar for the Court and to entrust him inter alia with some small cause work with a view to relieve the District Judge. The proposal to entrust the Registrar of the Resident's Court with small cause powers has been subjected to vigorous criticism by the District Judge.

15 A good part of the criticism appears to have been based upon a misapprehension of the situation. It is necessary therefore to make clear how exactly the position

the office establishment of the Resident's Court concern itself with small cause work. The Registrar of the Resident' Court will relieve the Judge of the Small Cause Court of some of his judicial work and nothing more and he will, subject to the orders of the principal Judge, hold Court at such place as may be most convenient having regard to all the circumstances of the case. In fact the two Courts (the Resident's and the District Judge's) adjoin each other and are practically within the same premises.

The difficulties anticipated in paras (4) and (5) of the District Judge's d.o will not, in the circumstances explained above, arise.

16 There remain to be considered three other points raised by the District Judge viz.:

(i) the right of revision to the High Court,

(ii) Administrative control over the Court of Small Causes; and (iii) Control of the work of the Addl Judge of the Court of S.C.

17 Right of Revision The right of the party aggrieved by the decision of a Judge of the Court of Small Causes to move the High Court in revision under section 25 of the Provincial Small Cause Courts Act will not be affected by the fact that such Judge happens to be the Registrar of the High Court. Revision Petitions are prepared by the advocates of the parties and presented in the office of the

the Court. They are disposed of by the Judge in open Court after hearing the advocates. The Registrar's purely ministerial part in calling for the records from the Small Cause Court and in preparing them for the Judge cannot possibly affect the decision of the case upon merits by the Additional Judge.

The law (section 114 and Order LVII Schedule I of the Civil Procedure Code) provides for a review by the same Court (which means often by the same Judge) of its own decision in certain circumstances; and such provisions are freely resorted to. It seems rather far fetched to argue in the circumstances that the arrangement under which the Registrar of the Resident's Court exercises the powers of a Judge of the Small Cause Court will not inspire respect and confidence in the Judicial machinery of the Station in the legal profession and the litigant public.

18. (iii) Administrative control Under section 28(i) of the Provincial Small Cause Courts Act the administrative control of the Small Cause Court is vested in the District Court. As already indicated in para 15 ante there will be only one Court and its position will remain very much as it is at present. The District Judge in his dual capacity as District Judge and as the principal Judge of the Small Cause Court will continue to exercise as at present

present all the administrative functions of the Court. Section 8 of the Act details the relations between the principal and additional Judges. Under section 9 of the Act an additional Judge can be suspended or removed from office only by the local Government. So the District Judge does not, either in his capacity as the District Judge or Judge of the Small Cause Court, exercise any disciplinary control over the Additional Judge of the Small Cause Court ~~irrespective of the fact that~~ whether or not the latter is the Registrar of the High Court. The question of leave to the additional Judge is the only other point. In the case of leave other than casual leave to the additional Judge the matter will necessarily have to be taken to the local Government as the District Judge has no power to appoint a substitute. In actual practice therefore it will be the local Government that will also sanction leave. The proposal does not therefore create any difficulty in regard to administrative control.

19 ~~(iiii)~~ Control over work. The practice is to submit the returns and abstracts of subordinate Courts to the Additional Judge. It is not therefore ~~be~~ correct to say that there will be no effective check over the Registrar's work as small cause Court Judge or that there will be no check of the District Judge's returns because the Small Cause

22 It seems clear enough that there is no serious objection to investing the Registrar of the Resident's Court with Small Cause powers; but there will be no object in doing so unless or until we are in a position to have a separate Registrar. As long as the Superintendent of the Residency Office continues to be Registrar of the Resident's Court, it is quite impossible for him to undertake any Small Cause Court work.

23 How does the proposal for a separate Registrarship stand? Even if it is ever to be put into effect; it seems certain that it will be some time before we can put it into effect; and something must be done now.

24 I begin to feel doubtful myself - particularly in view of the possibility of retrocession - whether it would be wise to go any further into the proposal for a separate Registrar at the present time. If I remember aright, Additional Judge once suggested that a practicable arrangement would be to relieve the District Judge of some of his Small Cause Court work and in its place to let him take on the work of Registrar of Joint Stock Companies.

S.N. 1 (Pu c I)
Cor. P. 2.

25 The proper arrangement seems to be

(a) to enhance the Small cause powers of the Registrar of the District Court to (say) Rs 100.

and (b) to transfer the work of Registrar of Joint Stock Companies from Secretary to District Judge

26 We should have to consider whether any special pay would have to be given to the Registrar of the District Court on account of the enhancement of his powers: but the whole question of these future arrangements must be considered at one time and cannot be tackled piecemeal.

27 Please now deal with this case early

Clow 29.10.34.

Special Pay of the Registratr

This point has been touched on in para 12 of notes. The Registratr gets at present the maximum pay in the scale of Rs. 150-10-250 and a special pay of Rs.75/- for exercising jurisdiction in small cause suits of the value of Rs. 20/- He has been drawing the special pay from Nov 1926.

A special pay of Rs. 75 p.m. may be considered high when compared with the value, volume and intrinsic importance of the suits. The special pay works to Rs. 900/- a year. The Court Fees realisable from the average number of small cause suits of the value of Rs. 20 and less instituted in a year would not exceed, on a rough estimate, Rs. 680/ a year. It may be less. Small cause suits of Rs. 20 and less work out to only about 17% of the total number of all small cause suits. Only about 17% of the total number are contested. The corresponding percentage for suits of Rs. 20 and less is not however known. It is significant that Mr. Reddy when he proposed to raise the Registratr's small cause jurisdiction to Rs. 50/- did not suggest any additional remuneration.

*Court Fees on a s.c.suits of the value of Rs.20-----Rs.1-8/
Average number a year. 450
Total Court Fees-- Rs.680

The present proposal to vest in the Registrar jurisdiction in suits up to the value of Rs. 100/- will add a considerable number of suits to his file- about 1400/ a year. To throw this additional volume of work without additional remuneration, simply because the present special pay is high will not be right or proper. But the existing high special pay may be taken into account in deciding upon the additional remuneration to be paid. An addition of Rs. 25/ in lieu of the Rs. 50/- proposed by the District Judge, will raise the special pay to Rs.100/- This mode of fixing ~~up~~ is however purely arbitrary.

An alternative to the above will be to fix the amount of special pay with reference to the actual number of days the Registrar will hold court to dispose of judicial work. The special pay will have to bear the same proportion to the Registratr's pucca pay as the number of days devoted to judicial work in a month to the total number of days in it. It is understood that the District Judge now generally sits for

three days in a week to dispose of small cause work. If the Registrar ~~xxx~~ holds court for 10 days in a month, as seems probable after the enhancement of powers now proposed, the special pay may be 1/3 of his pucca pay, namely, Rs83 (1/3 of Rs. 250) or Rs. 85 in round figures. A small addition to this amount might be necessary for the enhanced status of the Registrar as a result of the exercise of judicial powers. In view of what is stated in the previous para a consolidated special pay of Rs. 90/- might be reasonable.

Sec. 14(2) of the Provincial Small Cause Courts Act empowers the High Court to make rules, consistent with the Act, conferring on the ministerial officers of the Court such powers and duties as it may think fit. A rule may therefore be made conferring on the Registrar the additional powers now proposed. Two drafts are submitted.

Separate action will be taken to transfer the work of the Registrar of Joint Stock Companies from the Secretary to the District Judge.

(From Page 25)

34 Will Addl. Judge kindly see the draft and say whether he concurs in the proposal? I agree that the ~~Existing~~ special pay of 75/- seems unnecessarily high for the amount of small cause work that the Registrar is doing at present; but raising of his jurisdiction to 1000/- will involve a very appreciable addition to this work; and I think that his special

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might be raised to 90/- as proposed.

19-11-34.

Addl. Judge 35

I have no particular views on the subject of the small addition proposed, but I think the basis of the office note is erroneous. The question should not be so much one of extra pay for extra work, but rather of the proper scale of pay for the work as a whole. To decide this, one must consider (1) The pay of similar officers elsewhere (2) The necessity for keeping up the status of a judicial officer (3) The danger of corruption

+(Rs 250 - 5/2 - 500) J 6

As to (1), the Registrar's pay & allowances do not compare badly with those of a Headman of a district munsif, who has greater exercises much greater powers & responsibilities As to (2) it is, I think, desirable that when the Registrar holds court, he should be paid enough to make the vakils respect him & not treat him as a glorified clerk. As to (3) the raising of his jurisdiction certainly increases his temptations & from that point of view an enhanced pay is desirable. The actual rise of Rs 15 a month is certainly not ~~excessive~~ much. It has to be remembered that the Registrar has little prospect of promotion, so that the danger of corruption is all the greater (This is, of course, no reflection on the present incumbent who is unknown to me). From these considerations I am of opinion that the total proposed remuneration of Rs 250+90 is not unreasonable

20. 4

Secy.

CORRESPONDENCE.

1283—22-3-1929—4,000—RPB. S. N. 1

CONFIDENTIAL.

No. C/4. ENCLOS.

DISTRICT AND SESSIONS COURT,
CIVIL AND MILITARY STATION,
Bangalore, dated 12th April *19*34.

FROM

P. Medapa Esq., B. A., B. L.,
DISTRICT AND SESSIONS JUDGE,
CIVIL AND MILITARY STATION,
BANGALORE.

To

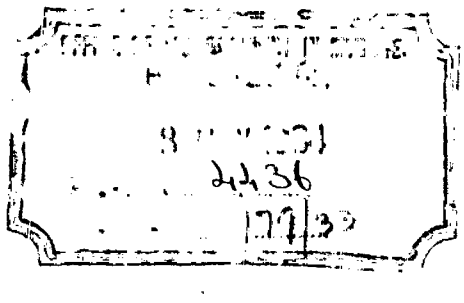
The Additional Judge,
Court of the Hon'ble the Resident in Mysore,
BANGALORE.

SIR,

In continuation of my conversation with you on the 11th instant, I have the honour to bring to your notice that the District Judge of this Station has a filing - on the last three years' average- of about 2600 Small Cause Suits, 3100 Execution Petitions, 1800 Civil Miscellaneous Cases, 150 Insolvency Petitions apart from about 40 Original Suits, 35 Civil Appeals, 7 Sessions Cases, 47 Criminal Appeals and 34 Criminal Miscellaneous Petitions per year. The District-Judge has unlimited jurisdiction both on the Civil and Criminal side and has also to do the work of a Registrar of Assurances. It seems to me that it is not desirable to allow so much of his time to be taken up in the disposal of petty Small Cause Suits and the connected Execution and Miscellaneous Petitions to the detriment of his other and more important work. This practice of getting the District Judge to dispose of petty Small Cause work does not seem to be prevalent anywhere else. My predecessor, Mr. C.V. Reddi also appears to have felt the same difficulty in coping with the work of this Court. I would therefore request you to recommend to the Hon'ble the Resident that the Small Cause Jurisdiction of the Registrar of the District Court may be

P.T.O.

raised to Rs 100/- so that some relief in work may be afforded to the District Judge. If this suggestion of mine is acceptable, I would also suggest that the powers of the Registrar may be raised by Rupees fifty per item.



I have the honour to be,

Sir,

Your most obedient servant,

P. Medanna

District and Sessions Judge.

forwarded to the Hon'ble the Resident

It is anomalous that a Judge with such extensive Criminal & Civil powers should be trying petty suits for amount of Rs down to Rs 20.

This will start be true after the Retrenchment although he may not then have sufficient work with the petty suits.

As there is now no Asst Secretary, it may be possible to transfer to the District Judge the work of the registrar under the Joint Stock Company & other Acts now done by the Secretary

Asst Judge 16/1/24.

the latter Court. This difficulty will be very keenly felt in actual practice and will result in a deadlock in the work of both the District Court and the Court of the Resident's Registrar.

(5) Investing the Registrar of the Resident's Court with Small Cause powers must necessarily result in the creation of a separate Process Establishment to execute processes of his Court and a separate Copyist Establishment also for his Court as the Registrar of the Resident's Court in his capacity as Registrar of the Local High Court will not be subordinate to the District Judge. And the creation of a separate Process Establishment and a separate Copyist Establishment for the Registrar of the Resident's Court would, I need hardly say, entail an unduly extra cost to Government disproportionate to the volume of his Judicial work.

For the above reasons, I do not think it is either expedient or desirable to invest the Registrar of the Resident's Court with any Small Cause powers.

Yours truly,

P. Nadkarni

District & Sessions Judge.

To

Major C. G. N. Edwards, I. A.,
Secretary to the Hon'ble the Resident
in Mysore, BANGALORE.

S.N.3

No.F.179-33
R.O.I.

Issued 29.11.34.

From

The Registrar,

Court of the Hon'ble the Resident in Mysore.

To

The District Judge,

Civil and Military Station,

Bangalore.

Dated, Bangalore, the 29th November 1934.

Subject:- Enhancement of the Jurisdiction of the Registrar of the Court of Small Causes.

.....

Sir,

I am directed to refer to your confidential letter to the Additional Judge of the Court of the Hon'ble the Resident in Mysore, No.C/4, dated the 12th April 1934, and to say that the Hon'ble the Resident has been pleased to approve of your proposal to confer on the Registrar of the Court of Small Causes power to try and dispose of small cause suits of value not exceeding Rs.100/-. A copy of the rule made under section 14(2) of the Provincial Small Cause Courts Act, 1887, as applied to the Station is enclosed.

S.N.1
Corp.2

2. I am to add that the Hon'ble the Resident has been pleased to sanction a consolidated special pay of Rs.30/- to the Registrar as remuneration for the performance of the judicial duties devolving on him.

3. In view of the large relief now afforded to the District Judge you are requested to report whether there is any objection to your taking over the duties of the Registrar of Joint Stock

Companies

Companies in the Station.

I have the honour to be,
Sir,
Your most obedient servant,

o/c

R E G I S T R A R.

PKH
28/11

PKH

S-N-4

Issued
Le
29.11.34.

COURT OF THE HON'BLE THE RESIDENT IN MYSORE.

Judicial Notification.

No.1 Dated, Bangalore, the 29th November 1934.

In exercise of the powers conferred by sub-section (2) of section 14 of the Provincial Small Cause Courts Act 1887, as applied to the Civil and Military Station of Bangalore, the Court of the Hon'ble the Resident in Mysore has been pleased to make the following rule:-

"All suits cognisable by a Court of Small Causes of value not exceeding Rs.100/- shall be tried and be disposed of by the Registrar of the Court of Small Causes established in the Civil and Military Station of Bangalore."

o/c

REGISTRAR.

To be published in the Residency Orders.

PKH

Date cancelled - vide Notification dtd 1-9-37. (C+M. 48/1937).